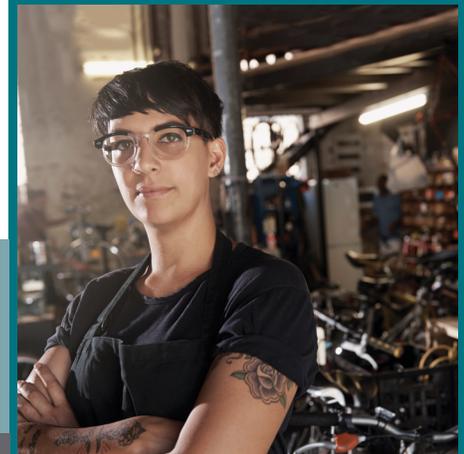




# Workers' Compensation Board



# 2019

## Annual Report

Andrew M. Cuomo, Governor

Clarissa M. Rodriguez, Chair

# Table of Contents

**Executive Summary** ..... **3**

Current Offices, Hearing Points, and  
Customer Service Center Locations ..... **5**

Claims Overview ..... **6**

Resolution Process ..... **7**

Hearings and Virtual Hearings ..... **10**

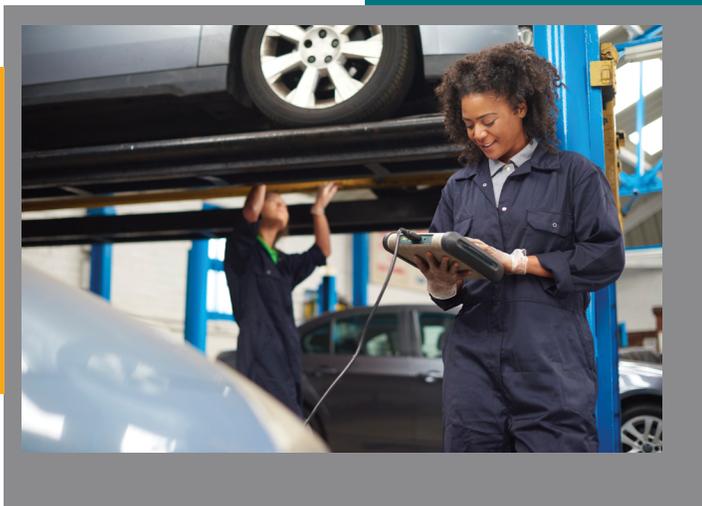
Continuing to Improve Benefit Determinations  
and Enhance Care ..... **13**

More Providers ..... **13**

Guides for Better Care ..... **13**

Better Systems ..... **14**

Moving Forward, Building on Success ..... **14**



# Executive Summary

The Workers' Compensation Board (Board) is pleased to submit its 2019 Annual Report. Pursuant to Workers' Compensation Law § 153, this report states in detail the work the Board has done in hearing and deciding cases and related aspects of the Board's operations, including assembly and adjudication of workers' compensation claims and carrier compliance.

In 2019, the Board continued its efforts to maximize process and legislative enhancements designed to make the Board "better for workers, and better for business." While the Board's improvement initiatives are ongoing, they are already yielding excellent results in a number of areas:

## Prompt Payment

Since the Board began educating payers, monitoring their performance against legal time frames, and systematically penalizing lapses, insurers are paying lost wage benefits to injured workers and reporting their injuries faster than they have in decades.

Timely initial payments



In 2019, 9 in 10 injured workers received their first benefit payment timely, meaning within 18 days of disability or 10 days from the worker giving the employer notice of an injury, whichever is later. Injury notices, an indispensable first step in timely benefits, saw similar improvement.

## Dramatically Lower Dispute Rate

When insurers controvert (or initially deny) claims, the injured worker receives no benefits while the claim is litigated. This century's first decade had an average controverted claim rate of 15%. To reduce this rate, the Board improved the controversy rules as part of a systematic, concerted effort to stop unnecessary disputes. In 2019, the rate of controverted claims was down to 5.6%.



## Appealed Claims Quickly Resolved

Terrific progress was made in accelerating decisions in appealed claims. As of January 1, 2020, 97% of these claims were pending less than six months. The Board significantly reduced the inventory of appeals awaiting a decision, as well. All this occurred while the quality of Board decisions improved.

Appealed claims pending less than six months

*\*As of 1/1/14 and 1/1/20*



## Better Worker Protections

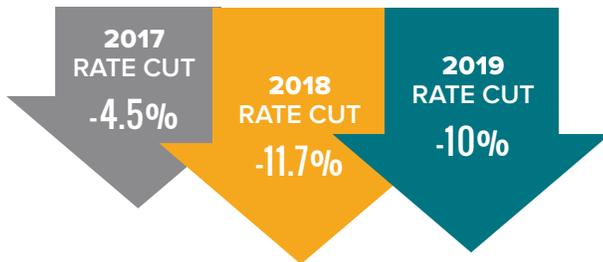
In response to the 2017 Legislative Reforms, the Board created new procedures to ensure injured workers get a hearing within 45 days when they are not receiving benefits and their claim is undisputed.

## Assessment Rates Slashed

Employers pay an annual assessment to operate the New York State workers' compensation system. The assessment rate was greatly reduced following the Business Relief Act of 2013, declining 35%. In 2013, the rate stood at 18.8%; for 2020, it is 12.2%.



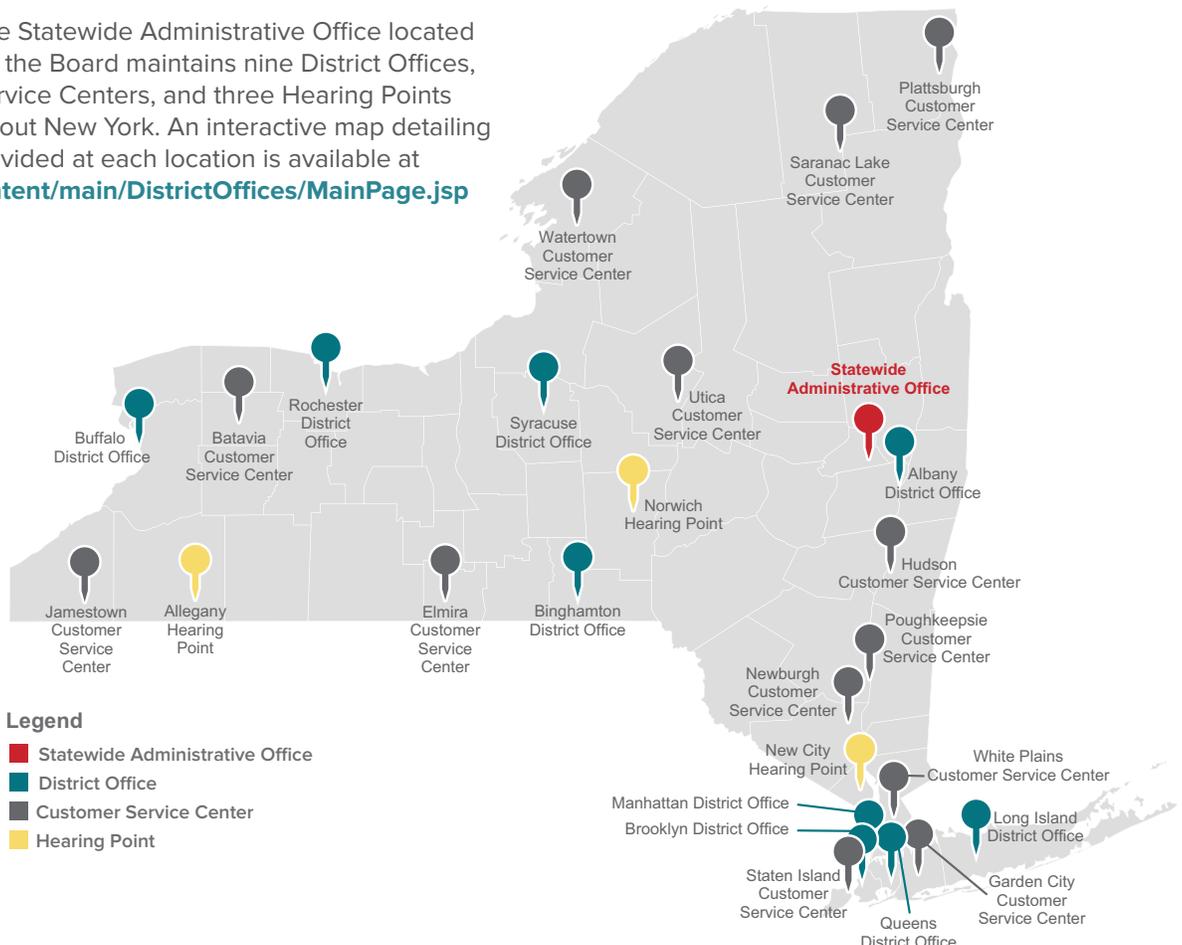
## Insurance Rates Cut



In New York, insurance rates have dropped significantly over the past three years, due to stronger trends in wages and efforts by the Board to create smarter, more efficient processes that cut administrative costs. A more progressive use of technology also contributed to the decrease. In 2019, insurance rates were cut by 10%, which came on the heels of an 11.7% cut in 2018, the largest rate cut in over 10 years.

# Current Offices, Hearing Points and Customer Service Center Locations

In addition to the Statewide Administrative Office located in Schenectady, the Board maintains nine District Offices, 13 Customer Service Centers, and three Hearing Points located throughout New York. An interactive map detailing the services provided at each location is available at [wcb.ny.gov/content/main/DistrictOffices/MainPage.jsp](http://wcb.ny.gov/content/main/DistrictOffices/MainPage.jsp)



- Legend**
- Statewide Administrative Office
  - District Office
  - Customer Service Center
  - Hearing Point

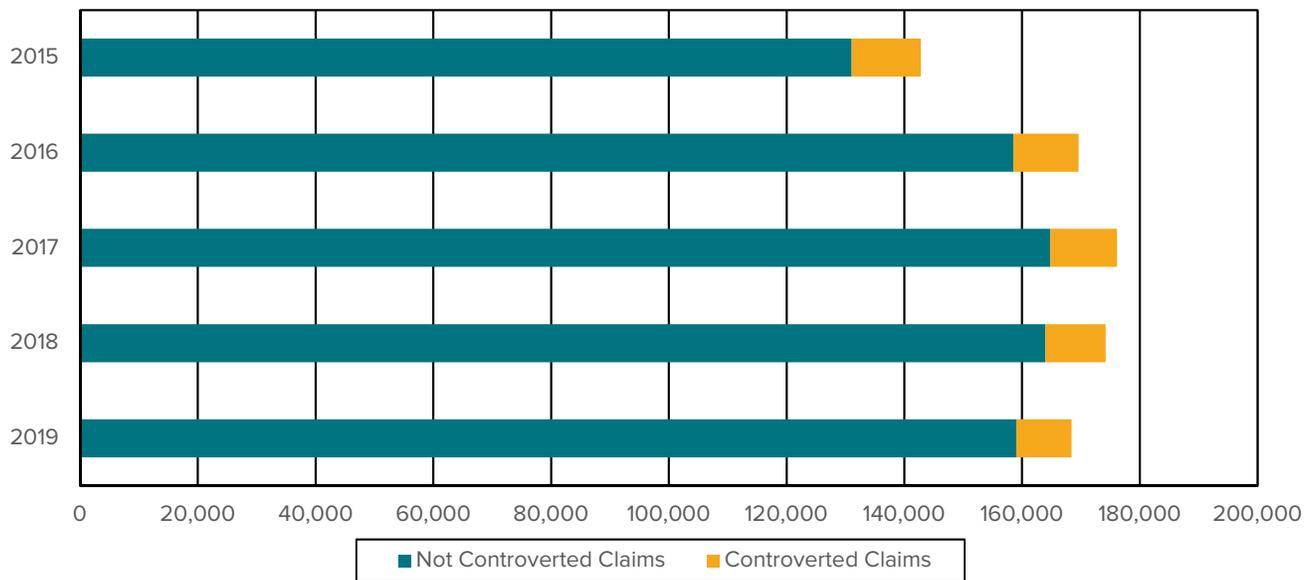
# Claims Overview

Each year, the Board receives more than 14 million claims documents, filed by a variety of system stakeholders, including health care providers, injured workers, employers, attorneys and insurance carriers.

The number of claims assembled in 2019 totaled 168,432.

Although workers' compensation is a no-fault insurance system, the insurance carrier or self-insured employer disputes or "controverts" the injured worker's eligibility for workers' compensation benefits in a small number of cases. Resolving claim disputes currently consumes a large percentage of the Board's staff and system resources. When a claim is disputed, the Board has an expedited hearing process that strives to resolve the dispute within 90 days. It is important to note that 2019 saw a **record low in the number of controverted claims**.

Claims Assembled - Controverted vs. Not Controverted From 2015 to 2019



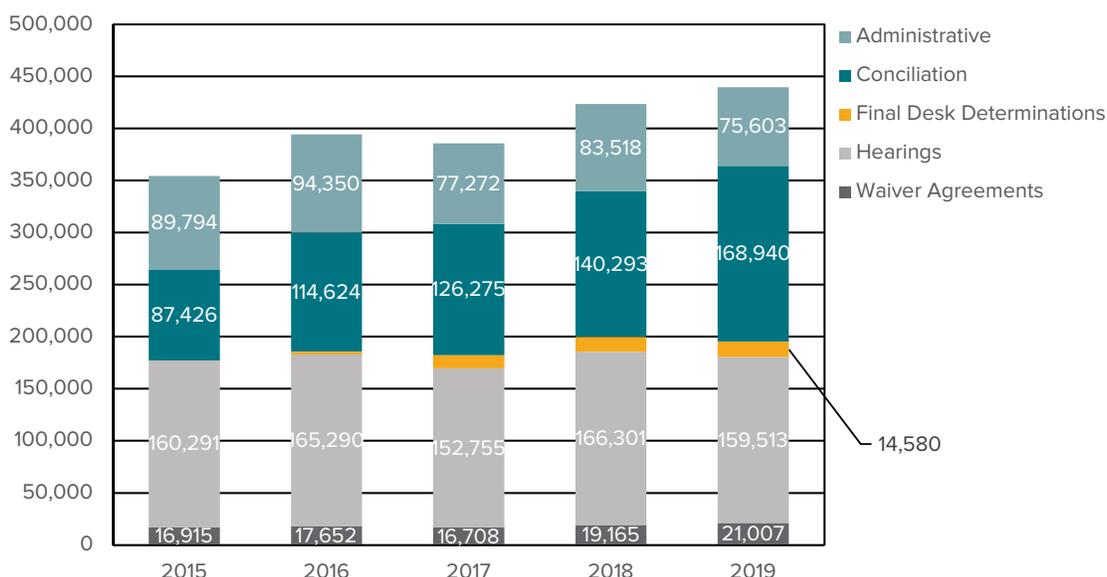
Year	Total Claims Assembled	Controverted Claims	Claims Not Controverted	Percentage of Claims Controverted
2015	142,830	11,743	131,087	8.2%
2016	169,636	11,063	158,573	6.5%
2017	176,167	11,352	164,815	6.4%
2018	174,239	10,246	163,993	5.9%
2019	168,432	9,384	159,048	5.6%

In a **controverted claim**, the Board must receive the following: 1) "Notice That Right to Compensation Is Controverted" indicating that the Carrier disputes the claim, and 2) qualifying medical documentation.

# Resolution Process

The Board adjudicates issues either formally or informally. Formal resolution is achieved via an actual hearing in front of an Administrative Law Judge. During 2019, the Board held 257,781 hearings, 62% successfully resolved the issue(s) at the hearing. Informal resolution includes administrative actions such as issuing desk decisions and proposed decisions based on the submitted documents. In 2019, 58.9% of resolutions were resolved through informal methods. This is an increase from 48% in 2014. This shift to more informal resolution methods allows the Board to save formal hearing time for more complex disputes. Cases may take more than one hearing or informal decision to resolve. In 2019, the Board issued 439,643 claim resolutions.

Claim Resolution by Board Process 2015 to 2019



Board Process	Resolution Year				
	2015	2016	2017	2018	2019
<b>Informal</b>	<b>177,220</b>	<b>211,355</b>	<b>216,117</b>	<b>237,872</b>	<b>259,123</b>
Administrative	89,794	94,350	77,272	83,518	75,603
Conciliation	87,426	114,624	126,275	140,293	168,940
Final Desk Determinations	—	2,381	12,570	14,061	14,580
<b>Formal</b>	<b>177,206</b>	<b>182,942</b>	<b>169,463</b>	<b>185,466</b>	<b>180,520</b>
Hearings	160,291	165,290	152,755	166,301	159,513
Waiver Agreements	16,915	17,652	16,708	19,165	21,007
<b>Total</b>	<b>354,426</b>	<b>394,297</b>	<b>385,580</b>	<b>423,338</b>	<b>439,643</b>

**Administrative** includes Administrative Determinations, Administrative Closures and Cancellations. (A claim is cancelled if it is determined to be a duplicate.)

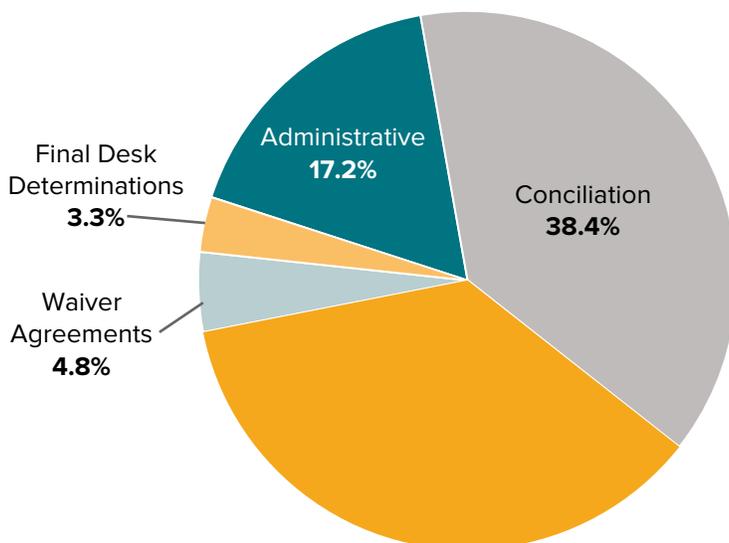
**Conciliation** provides an informal and prompt resolution of the claim based upon the cooperation of both parties: the injured worker and the insurance carrier/self-insured employer.

**Final Desk Determinations** reflect final desk decisions, which are identified by Board decision forms (NOSD-SL, NOSD-NSL, C67-D, C68A-D, and PD-32). The PD-32 waiver agreement has been in effect since March 1, 2016. The stipulation agreements have been in effect since November 2, 2016.

In a claim resolved by the **Hearing** process, a judge has determined that no further action by the Board is necessary at the conclusion of the hearing; this includes Pre-Hearing Conferences. A Pre-Hearing Conference provides a mechanism for the identification of issues and relevant evidence and permits parties of interest to assess their case and to resolve outstanding issues prior to scheduling a hearing regarding those issues. The count of Hearings also includes Administrative and Full Board Review resolutions.

**Waiver Agreements** settle any or all issues in a claim for workers' compensation benefits, subject to the Board's approval.

### Claim Resolution by Board Process in 2019



Board Process	Number of Resolutions	Percentage of Resolutions
Informal	259,123	58.9%
Administrative	75,603	17.2%
Conciliation	168,940	38.4%
Final Desk Determinations	14,580	3.3%
Formal	180,520	41.1%
Hearings	159,513	36.3%
Waiver Agreements	21,007	4.8%
<b>Total</b>	<b>439,643</b>	<b>100.0%</b>

**Administrative** includes Administrative Determinations, Administrative Closures and Cancellations. (A claim is cancelled if it is determined to be a duplicate.)

**Conciliation** provides an informal and prompt resolution of the claim based upon the cooperation of both parties: the injured worker and the insurance carrier/self-insured employer.

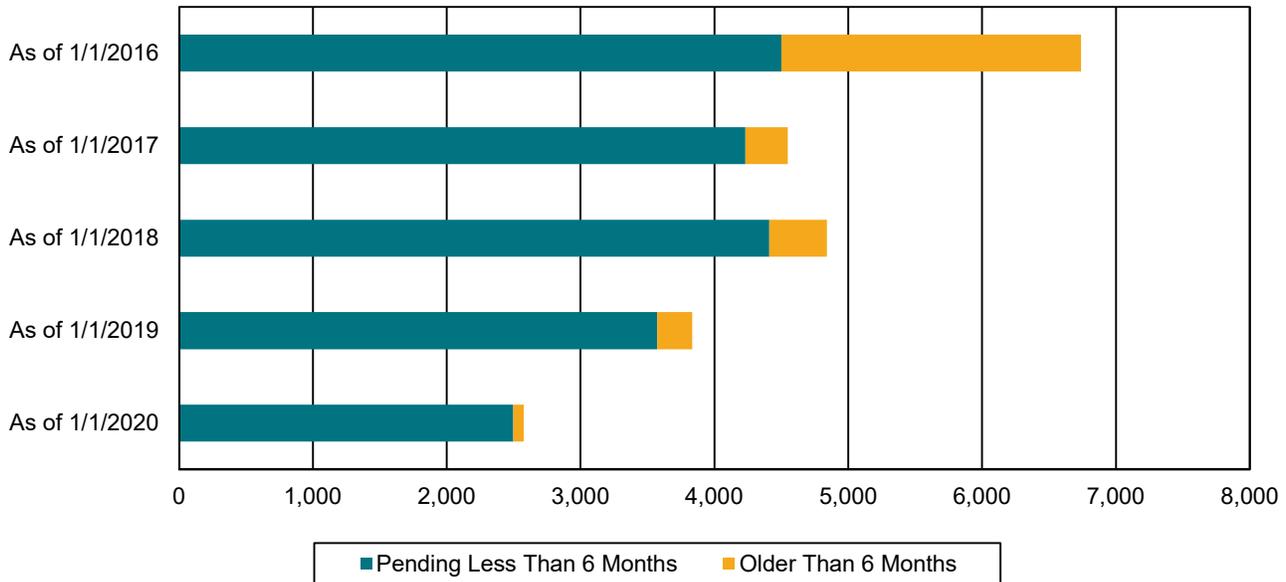
**Final Desk Determinations** reflect final desk decisions, which are identified by Board decision forms (NOSD-SL, NOSD-NSL, C67-D, C68A-D, and PD-32). The PD-32 waiver agreement

has been in effect since March 1, 2016. The stipulation agreements have been in effect since November 2, 2016.

In a claim resolved by the **Hearing** process, a judge has determined that no further action by the Board is necessary at the conclusion of the hearing; this includes Pre-Hearing Conferences. A Pre-Hearing Conference provides a mechanism for the identification of issues and relevant evidence and permits parties of interest to assess their case and to resolve outstanding issues prior to scheduling a hearing regarding those issues. The count of Hearings also includes Administrative and Full Board Review resolutions.

If either party believes the judge had an error of fact in the decision, they may raise an objection through an administrative appeal. The Board has significantly reduced the inventory of appeals awaiting a decision over the past few years while dramatically expediting their decisions. In 2014, more than 8,000 appeals awaited a decision — a year to issue a decision was common. As of January 1, 2020, the inventory of pending appeals has declined to 2,575. Of those, 97% have been pending for less than six months.

Appealed Claims Inventory  
Five-Year Trend



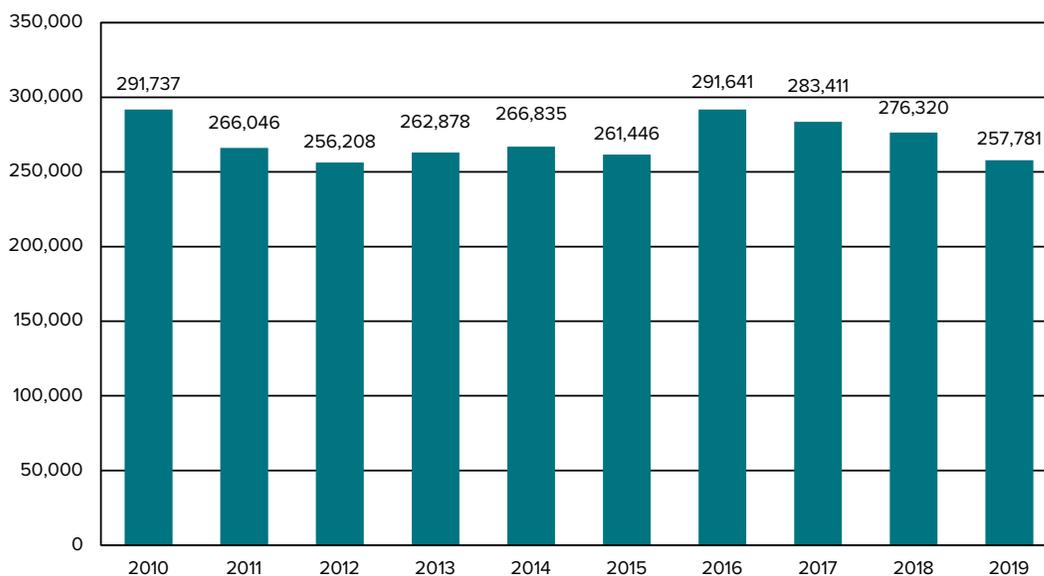
As of Date	Appealed Claim Inventory	Older than 6 Months	Percentage Pending < 6 Months
1/1/2016	6,740	2,240	67%
1/1/2017	4,547	315	93%
1/1/2018	4,840	430	91%
1/1/2019	3,834	262	94%
1/1/2020	2,575	77	97%

Age is measured from the application date of the administrative review.

Accuracy of age depends on availability and accuracy of the "Appeal Application Date" of the claim.

# Hearings and Virtual Hearings

Number of Hearings Held from 2010 to 2019  
Ten-Year Trend



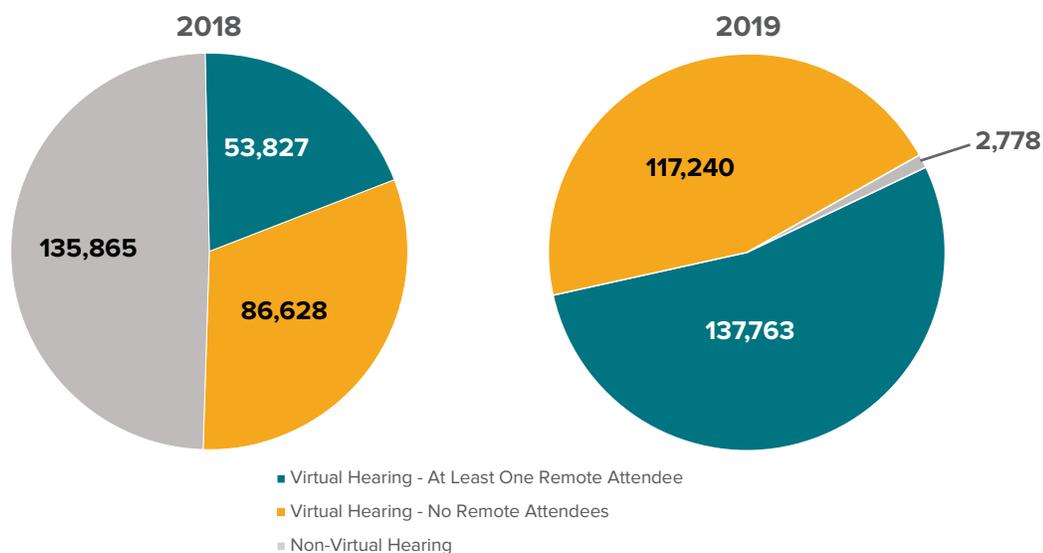
Year	Total Hearings Held
2010	291,737
2011	266,046
2012	256,208
2013	262,878
2014	266,835
2015	261,446
2016	291,641
2017	283,411
2018	276,320
2019	257,781

Through 2015, the number of hearings excludes commissioner hearings, board panel reviews and Section 32 waiver agreements. It includes hearings held at district offices, customer service centers and hearing point locations. Starting in 2016, the count includes Section 32 hearings.

If a hearing was held to resolve the issues in more than one claim for an individual injured worker, then the total number of hearings in this report reflects the total number of claims addressed at the hearing.

In 2018, the Board rolled out virtual hearings statewide. This groundbreaking initiative allows all parties in a workers' compensation hearing to participate remotely using their computer or mobile device. It is the first high-definition, all-access system for legal hearings in the nation, in which multiple users in different locations log in once and then move from one hearing to another. After a full year of running virtual hearings, the Board is seeing positive trends in usage as well as other benefits. From 2017 to 2019, the total number of hearings needing to be rescheduled due to the injured worker not appearing was reduced by 53%.

### Hearings Held Virtually in 2018 & 2019



Hearing Month	Total Hearings	Total Hearings Held Virtually	Virtual Hearings With At Least One Remote Attendee	Percentage With At Least One Remote Attendee
January	23,506	22,506	10,639	47.3%
February	20,451	19,545	9,381	48.0%
March	21,923	21,119	10,046	47.6%
April	23,575	23,570	12,096	51.3%
May	22,632	22,622	11,905	52.6%
June	20,586	20,580	11,065	53.8%
July	20,951	20,942	11,741	56.1%
August	21,241	21,235	11,836	55.7%
September	20,684	20,674	11,588	56.1%
October	21,869	21,863	12,565	57.5%
November	20,413	20,406	12,107	59.3%
December	19,950	19,941	12,794	64.2%

A remote attendee participates in a virtual hearing by using the Board's virtual hearing application and excludes those who appear in person.

If a hearing was held to resolve the issues in more than one claim for an individual injured worker, then the total number of hearings in this report reflects the total number of claims addressed at the hearing.

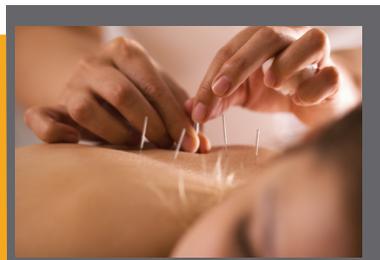
# Continuing to Improve Benefit Determinations and Enhance Care

The Board has made comprehensive changes in several areas to advance its goals of improving benefit determinations and enhancing care for injured workers. Among these changes are the Board's efforts to bring additional providers into the system and the creation of treatment guidelines that incorporate evidence based medicine using the latest medical advancements to help speed the healing process. The Board is also leveraging technology to create new, web-based systems that will support these goals and allow providers to focus on treating injured workers, rather than burdensome paperwork.

## More Providers

The Board's updated medical fee schedule, which significantly increases reimbursement to providers, and the adoption of the universal bill form (*Form CMS-1500*) to simplify medical reporting, are designed to attract more health care providers into the system and make medical billing easier.

A new law included in New York's Fiscal Year 2019-2020 Enacted Budget now allows the Board to authorize more types of health care providers to treat workers' compensation patients. As of January 1, 2020, licensed clinical social workers, nurse practitioners and acupuncturists (all three new to the system), as well as physician assistants, occupational therapists and physical therapists can apply for their own authorization. Previously, only physicians, chiropractors, podiatrists and psychologists could be authorized to treat injured workers. Additional types of providers coming into the system means that injured workers will have more access to the care they need.



## Guides for Better Care

The Board has successfully implemented several legislative initiatives from the 2007 and 2017 Reforms designed to improve medical treatment for injured workers.

**Permanent Impairment Guidelines:** The Board met a January 1, 2018, deadline to compose new Permanent Impairment Guidelines for medical providers to use when giving opinions in benefit determinations. The development of the Guidelines involved an extensive revision process that included the consideration of more than 25,000 public comments. The new Guidelines provide more clarity and reflect advances in medical care and outcomes.

**Drug Formulary:** The Board implemented a drug formulary that includes a list of preferred medications that can be prescribed to injured workers without any prior approval. The *New York Workers' Compensation Formulary (NY WC Formulary)* took effect in June 2019, and all new prescriptions were required to comply by December 5, 2019.

**Medical Treatment Guidelines:** The 2007 Reforms required the adoption of new *New York Workers' Compensation Medical Treatment Guidelines (MTG)*. The Board currently has six sets: (1) Nonacute Pain, (2) Mid and Low Back, (3) Neck, (4) Knee, (5) Shoulder and (6) Carpal Tunnel Syndrome.

The Board has been working with the Medical Advisory Committee to finalize additional MTG, which were released for public comment in summer 2019, including: (1) Elbow, (2) Ankle & Foot, (3) Hip & Groin, (4) Interstitial lung. Once finalized, these will be added to the Medical Portal for easy access.

## Better Systems

The Board is using technology to improve its systems and processes, and modernize the way stakeholders interact with the Board.

**Improved provider search:** To ensure that injured workers have access to the most current list of authorized health care providers actively treating in the system, the Board required authorized medical providers to reregister with the Board. This more refined data is what's behind the improved provider search tool on the Board website, making it easier for injured workers to find treating providers by location and/or specialty. This enhancement, coupled with the newly authorized providers, gives injured workers more options than ever before.



**New Medical Portal:** The Board launched an electronic Medical Portal to give medical providers and other stakeholders online, anytime access to information and workflow tools relevant to their role in the workers' compensation system. The first phases enabled medical providers and payers to access the Board's *MTG* and *NY WC Formulary*, utilize a new online process for prior authorization requests for drugs not on the *NY WC Formulary* and access a custom dashboard to track the status of requests and required actions. Medical providers can now apply to become Board-authorized providers through an online application process that is also delivered through the Portal. Additional functionality — including an *MTG* lookup tool and online variance request process — will be available soon.

**New claims system:** The Board kicked off the next chapter in its modernization with the launch of the Business Information System (BIS) Project. Working alongside external integration partner, CapTech Consulting, the Board is replacing its multiple paper-based claims systems, such as CIS and eCase, with a single, web-based platform. To improve system responsiveness to stakeholder needs, the new system will offer improved and expanded access to real-time claim data, new electronic self-service features for interacting with the Board, and an overall reduction in the number of paper form submissions.

## Moving Forward, Building on Success

The historically productive year the Board had in 2019 will serve as a springboard for continuous improvement in future years. With new guidelines, new tools and new providers now part of the New York State workers' compensation system, the Board can make even faster, more substantive leaps forward in building a system that's both better for workers and better for business.





## Workers' Compensation Board

 [facebook.com/NYSWCB](https://facebook.com/NYSWCB)

 [twitter.com/NYSWorkersComp](https://twitter.com/NYSWorkersComp)

 [instagram.com/nysworkerscompboard](https://instagram.com/nysworkerscompboard)

 [youtube.com/newyorkstateworkerscompensationboard](https://youtube.com/newyorkstateworkerscompensationboard)

Visit:  
[wcb.ny.gov](https://wcb.ny.gov)

Call:  
(877) 632-4996

Email:  
[General\\_Information@wcb.ny.gov](mailto:General_Information@wcb.ny.gov)

The New York State Workers' Compensation Board protects the rights of employees and employers by ensuring the proper delivery of benefits and by promoting compliance with the law. To learn more about the Workers' Compensation Board, visit [wcb.ny.gov](https://wcb.ny.gov).